



Housing Opportunities
for Persons With Aids –
HOPWA Program
Procedure Manual

Commonwealth of Virginia
Federal Fiscal Year 2004

**RETAIN THIS
DOCUMENT**

**THIS DOCUMENT CONTAINS A
PROGRAM GUIDE OUTLINING
FEDERAL REGULATIONS AND
REQUIREMENTS GOVERNING
THE HOPWA PROGRAM IN THE
EVENT FUNDING IS SECURED**

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APPLICATION

A stylized, light gray graphic of a house with a gabled roof and a chimney, serving as a background for the title.

Housing Opportunities for Persons With Aids – HOPWA Program

*Commonwealth of Virginia Federal Fiscal
Year 2003 and 2004*

BACKGROUND

The Housing Opportunities for Persons With AIDS (HOPWA) program was authorized by the National Affordable Housing Act of 1990, to provide States and localities with the resources and incentives to devise and implement long-term comprehensive strategies for meeting the housing needs of low-income persons with acquired immunodeficiency syndrome (AIDS) and related diseases, and their families. Activities of primary importance are housing and services that assist this population obtain and maintain affordable housing where they can maintain complex medication regimens and address HIV/AIDS related problems.

Funds are appropriated annually by Congress to the U.S. Department of Housing and Urban Development (HUD) for administration of this program. HOPWA funds are then awarded by formula to eligible States and Eligible Metropolitan Statistical Areas (EMSAs), which meet the minimum number of cumulative AIDS cases.

The statutory purpose of the HOPWA program is to provide states and localities with funds to reduce the risks of homelessness for this population and increase access to appropriate healthcare and other support. The use of these funds and other resources are coordinated within recipient communities through the area's Consolidated Plan, involving HOPWA formula grants, other HUD programs and other community resources, such as State, local and private funds through partnerships with area nonprofit organizations, including faith-based organizations.

HOPWA funds have provided housing assistance to thousands of low-income persons who are living with HIV/AIDS and their families. The program has helped many communities establish strategic AIDS housing plans, better coordinate local and private efforts, fill gaps in local systems of care, and create new housing resources.

HOPWA PROCEDURES & PROJECT SPONSOR'S REQUIREMENTS AND EXPECTATIONS

ELIGIBILITY OF PERSONS ASSISTED WITH HOPWA

A person eligible for assistance under HOPWA is one who is diagnosed with AIDS (acquired immunodeficiency syndrome) or tested to be seropositive for HIV and is a low-income individual, (defined as 80 percent of area median income in 24 CFR Section 574.3) and the person's family. A *family* is defined as two or more related persons or one or more eligible persons living with another person or persons who are determined to be important to their care or well-being. Surviving member(s) of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death are also eligible for limited assistance.

Project Sponsors are responsible for determining the eligibility of applicants who seek to participate in the program and must obtain complete information from applicants, thoroughly document the methods by which the information was verified, and maintain all pertinent information in the applicant's file. Project Sponsor staff must ensure that client confidentiality is maintained when verifying client information. The following must be verified and documented:

- **HIV/AIDS STATUS** – Verification may be accomplished by one the following ways:
 - Laboratory report indicating a positive serologic test
 - Doctor's statement
 - Hospital discharge summary
- **INCOME** – Verification of income is most important since it effects eligibility AND the amount of assistance that the applicant may receive. ALL income which is anticipated to be received by the applicant/family over the 12 month period, must be verified and included in determining income eligibility, unless the income is specifically excluded (see Appendix – Income Exclusions 24 CFR – Part 5 – Subpart F.) Verification may require the use of one or more of the following:
 - Check stubs or earning statements
 - Employer verification
 - W-2 form
 - Statements or letter from Social Security, Supplementary Security Income, Disability Income, Veterans Benefits, Retirement/Pension
 - Unemployment records
 - Divorce decree
 - Current bank statements
 - Income tax returns

FUNDS PRIORITIES

The Housing Opportunities for Persons With AIDS (HOPWA) program is a resource designated to provide an organized response to the various housing needs faced by individuals and families living with HIV/AIDS. To that end, Project Sponsors applying for funding should contain a program design with a strong housing focus, including the adoption of the following Performance Goals:

1. **Increase housing assistance, information and referral to low-income persons living with HIV/AIDS and their families in the service area.**
2. **Enable persons living with HIV/AIDS to achieve housing stability.**
3. **Encourage collaborative relationships in the administration of the HOPWA program.**
4. **Enable persons living with HIV/AIDS to access health-care and supportive services.**

To promote the use of HOPWA funds for housing-related activities and in anticipation of a U.S. Department of Housing and Urban Development (HUD) program directive, no more than 40% of a Regional Funding Target may be used for supportive services activities.

ELIGIBLE ACTIVITIES

The HOPWA program provides support for the provision of housing assistance and supportive services. This holistic approach is designed to provide a coordinated effort toward meeting client housing and service needs and preferences.

HOUSING ASSISTANCE is the primary goal of the HOPWA program. HOPWA funds assists clients maintain a high level of housing stability. Housing stability refers to the length of time that clients remain in housing where they can focus on issues such as maintaining good health and adhering to medication regimens.

Housing programs should focus on filling gaps not covered by other community resources or adapting mainstream resources to meet the needs of people living with HIV/AIDS. Organizations providing any type of housing assistance must develop a **HOUSING PLAN** for each client receiving these services. The plan must include, at a minimum:

- current needs
- resources available
- a plan that will indicate how the client will be able to meet ongoing housing payments after the assistance is no longer available.

The types of housing assistance available to clients and their families include the following:

EMERGENCY

- **EMERGENCY ASSISTANCE** - Assistance made to help people living with HIV/AIDS households who are homeless, obtain temporary housing until more permanent housing can be secured. Hotel or motel vouchers are a form of assistance given to these people that have no other alternative but living on the streets or in a substandard or inappropriate housing situation. This type of assistance falls under the same guidelines as STRMU (see the following) – one-time or very short-term assistance.
- **SHORT-TERM RENT, MORTGAGE, AND UTILITY PAYMENTS (STRMU)** Assistance made to help people living with HIV/AIDS households who are homeless or who are facing a crisis that could result in displacement from their current housing. The flexibility of the HOPWA program allows Project Sponsors to be extremely responsive in addressing the needs and preferences of clients and their individual circumstances.

The HOPWA statute provides that clients may receive short-term payments for emergency situations for not more than 21 weeks in any 52 week period. This assistance is intended for **one-time crises, not ongoing needs**. For further details on eligible utilization of STRUM, see *Appendix - Notice CPD-02-9*.

Assistance that will forestall eviction, foreclosure, or uninhabitability of the residence may include:

- Rent, mortgage, utilities
- Emergency repairs
- Weatherization

TRANSITIONAL

- **MOVE-IN AND OCCUPANCY NEEDS ASSISTANCE** - assistance given to households for one-time challenges of establishing a new residence. Assistance may include:
 - Rent deposit
 - Move-in kit (linens, cookware, dishes, flatware, cleaning supplies)
 - Basic life skills training
 - Utility hook-up fees
 - Furniture/appliances

This type of assistance can be either in-kind assistance or cash payments. Since all homeless people, have similar move-in and occupancy needs, project sponsors should coordinate with other homeless service providers in their area to assist their HOPWA clients. Also, when deposit assistance is provided, Project Sponsors must establish a policy on the recover of the deposit upon the departure of the HOPWA client.

- **TENANT BASED RENTAL ASSISTANCE (TBRA)** – is ongoing assistance paid to landlords on behalf of a HOPWA client to cover the difference between market rents and what the tenant can afford to pay (based on guidelines found in ***HOPWA Tenant-based Rental Assistance Procedures Manual***.) HOPWA clients find their own units and may receive assistance for transitional housing for a limited duration – usually up to 2 years – and is intended to help people transition from a housing crisis into a permanent, stable housing situation. Its goal is to provide temporary housing and services to help households develop the skills and locate the ongoing resources they need to succeed in permanent housing. This assistance is effective where consumers, by the time assistance ends, are likely to either become self-sufficient or transition to another permanent housing resource.

Project Sponsors proposing administration of tenant-based rental assistance must:

- Inspect housing units for adherence with U.S. Department of Housing and Urban Development Housing Quality Standards (HQS).
- Include a plan for conducting HQS inspections by qualified staff or subcontractors.
- Conduct and document method of a housing market analysis, comparing cost of comparable housing in the area that TBRA is provided.
- Must adhere to the guidelines in the *HOPWA Tenant-based Rental Assistance Procedures Manual* (available from the Virginia Department of Housing & Community Development Office.)
- **MUST NOT** use TBRA funds for deposit assistance, of any kind.

- **PROJECT-BASED HOUSING** – supportive transitional housing provided to homeless families and individuals to overcome the problems that led to their homelessness and return to living in permanent, independent housing. This assistance is provided to the owners of existing structures, where the owner AGREES to lease the subsidized units to HOPWA participants.

Project Sponsors proposing administration of Project Based assistance program must:

- Inspect housing unit(s) for adherence with to the U.S. Department of Housing and Urban Development Housing Quality Standards (HQS) on an annual basis.
- Maintain inventory (furnished units only) of supplies, furnishings, and appliances in units.
- Establish a contract between client and Project Sponsor specifying goals, objectives, and timelines for client to overcome the problems that led to their homelessness and return to living in permanent, independent housing.

Operating costs, the costs associated with Project-Based units, may include the maintenance, security, operation, utilities, furnishings, equipment, supplies, and other incidental costs, are eligible activities.

SUPPORTIVE SERVICES – Project sponsors assisting HOPWA-eligible households must ensure that these households have access to qualified service providers in the area for appropriate supportive services. Project sponsors may provide these supportive services directly to the household or verify the availability and provision of supportive services to the household through another qualified service provider (Regulation 24 CFR Part 574 §574.310.) Regulation 24 CFR Part 574 §574.300 (7) lists the following as appropriate supportive services:

- Health (health services may only be provided to individuals with HIV/AIDS)
- Mental health
- Assessment
- Permanent housing placement
- Drug and alcohol abuse treatment and counseling
- Day care
- Personal assistance
- Nutritional services
- Intensive care
- Assistance in gaining access to local, State, and Federal government benefits and services.

Pursuant to HUD guidance, health-care costs such as therapies, services and pharmaceuticals **WILL NOT** be funded under the program. HOPWA funds **MAY NOT** be used for HIV/AIDS education or prevention initiatives or to supplant, or replace, existing funds for services currently available to the target population.

CASE MANAGEMENT – must be offered to all HOPWA clients. Key case management activities include:

- Initial comprehensive assessment of the client's needs and personal support systems
- Development of a comprehensive, individualized service and Housing Plan
- Coordination of the services required to implement plans
- Client monitoring to assess the efficacy of the plan
- Periodic re-evaluation and revision of plans as necessary
- Possible client-specific advocacy and/or review of utilization of services
- File documentation of all supportive services and housing information services offered or provided

Project Sponsors' case manager must document in the client's case file **ALL** appropriate case management, supportive services, and housing information services that are provided or offered; and case managers must also obtain and keep on file copies of utility bills, mortgage payment coupons or invoices, and/or rental leases for which HOPWA assistance is provided.

HOUSING INFORMATION SERVICES – Project sponsors must offer housing information services and document these services in client files. These services may include but are not limited to:

- Counseling
- Information, and referral services to assist an eligible person to locate, acquire, finance, and maintain housing
- Fair Housing Counseling

RESOURCE IDENTIFICATION - Project sponsors must establish, coordinate and develop housing assistance resources for eligible persons. An applicant may propose to operate technical assistance and/or resource identification activities that help communities and organizations develop housing resources for persons with HIV/AIDS and their families. Generally, this assistance can be used to:

- Help communities to improve community-based needs assessments, undertake multiple-year HIV/AIDS housing planning.
- Enhance facility operations and refine other management practices of organizations that provide or plan to provide housing assistance and/or related supportive services for persons living with HIV/AIDS and their families.
- Provide support for HOPWA project sponsors in the form of advice and training to help build the capacity of sponsors to undertake housing development.
- To operate housing programs, and use of funds in compliance with the Consolidated Planning Process and the Grants Management System.

ADMINISTRATIVE COSTS – Costs associated with general management, oversight, coordination, evaluation, and reporting on eligible activities. **UP TO 7% OF THE GRANT AWARD IS ALLOWABLE.** Costs include accounting for the uses of grant funds, preparing reports for submission, audits, and similar costs related to administering the grant after award. The cost of staff which carry out direct assistance to clients, such as counseling, services, housing maintenance, and technical assistance are costs of **that activity** and **are not** considered administrative costs. For further information, see 24 CFR Parts 574.300, 574.310, 574.320, 574.330, and 574.340.

ACQUISITION, REHABILITATION, OR NEW CONSTRUCTION ACTIVITIES - Applicants who propose to use HOPWA grant funds for acquisition, rehabilitation, or new construction projects at a minimum will be required to meet the following requirements and benchmarks:

- Gain site control within one year of project award (i.e, one year from the date of the signing of contract with DHCD)
- If the project is proposing to use HOPWA funds to undertake rehabilitation or new construction activities, the project is required to begin the rehabilitation or construction within 18 months and to complete the activity within 3 years of award date. Except for a

project that involves HOPWA-funded rehabilitation or new construction activities, the project is required to begin program operations within one year of their award.

- No HOPWA-related costs can be incurred until an environmental review has been completed by the responsible entity. An environmental review and Section 8 Housing Quality Standards (HQS) inspection is also required for properties using funds for leasing or operating costs.
- A Certification of Consistency with Consolidated Plans is provided. Proposed activities that are located in a jurisdiction are required to be consistent with the jurisdiction's current, approved Consolidated Plan, including the Analysis of Impediments to Fair Housing and the Action Plan to address these impediments.
- The applicant is currently in compliance with the Federal requirements contained in 24 CFR part 574, subpart G, "Other Federal Requirements."
- Must execute a Deed of Trust that must guarantee that the facility will be used to provide housing or assistance to persons with AIDS or related diseases for the following periods of time:
 - not less than 10 years for projects involving acquisition, new construction, or substantial rehabilitation; or
 - not less than 3 years for projects involving non-substantial rehabilitation or repair of a building or structure.

If a funded project does not meet the appropriate performance benchmark or requirement, DHCD reserves the right to cancel or withdraw or otherwise deobligate awarded funds. In exercising this right, DHCD may waive a termination action in cases that they determine evidence that the delay and failure to meet the performance benchmark are due to factors that were beyond the control of the Project Sponsor.

Development (acquisition, new construction and rehabilitation) funding decisions and funding amounts will be based upon the following factors:

- Relative need for activity
- Amount of funds requested
- Value of applicant's contributions (cash and in-kind)
- Other Federal or State assistance available to applicant
- Numbers of persons to benefit from activity
- Project strategy and feasibility

PROJECT SPONSOR'S REQUIREMENTS

CERTIFICATIONS

Following notice of a HOPWA award and prior to undertaking HOPWA services within a unit of general local government, the Project Sponsor must obtain the following:

- **Certification of Local Approval**

Certification of Local Approval describes the activities to be made available through the HOPWA program (i.e. tenant-based rental assistance, emergency rent, mortgage and utility assistance, etc.) and confirms the local government's knowledge and approval of federally-funded activities in its jurisdiction. A Chief Administrative Officer must sign the document (i.e. City Manager or County Administrator) for each locality to be served. A completed Certification of Local Approval must be obtained for each city or county within its HOPWA-approved service area. *See Appendix – Housing Opportunities for Persons with AIDS Program Certification of Local Approval.*

- **Certification of Consistency with the Consolidated Plan**

Project Sponsors not included in the *Commonwealth of Virginia's Consolidated Plan* must obtain a Consolidated Plan certification from the applicable State or local government official responsible for submitting the appropriate Plan. States and units of general local government are required to certify both that the project is consistent with the Plan, but also that they are following their currently approved Consolidated Plan.

PROGRAMMATIC AND FISCAL REPORTING

All HOPWA project sponsors will be asked to complete a *Quarterly Performance Report* with program beneficiary data and program expenditures in order to comply with the U.S. Department of Housing and Urban Development's Integrated Disbursement and Information System (IDIS). In addition, Project sponsors will be asked to submit an *Annual Progress Report* for the HOPWA Program to DHCD no later than 90 days after the end of the program year. **Failure to comply with reporting requirements may result in the suspension of HOPWA funding.**

DISBURSEMENT OF GRANT FUNDS

Grant awards will be disbursed on a reimbursement basis. At the preference of the project sponsor, reimbursement requests may be filed with DHCD on a monthly or quarterly schedule. With all requests for funds, Project Sponsors must submit the following to DHCD:

- A completed *Request for Disbursement* form
- Documentation of program expenditures
- A completed *Integrated Disbursement & Information System (IDIS) Expenditure Summary Report*.
- A quarterly report (along with request if requests are on a quarterly basis; or along with every fourth request if requests are on a monthly basis)

Project sponsors are eligible for a working capital advance equal to thirty-days cash needs. The project sponsor will then be reimbursed for the amount of actual cash disbursement for the preceding month. If a project sponsor requests a working capital advance, it must base the request on a realistic, firm estimate of the amount required to be disbursed over the thirty-day period in payment of eligible activity costs. Working capital advances may be used for reoccurring activity costs, such as: rental assistance payments; short-term rent, mortgage and utility payments; supportive services; facility operations, repair, and leasing costs; and technical assistance and resource identification activities.

AUDIT REQUIREMENTS

Project sponsors who receive more than \$300,000 annually in total federal awards are required to submit an annual independent audit to DHCD in accordance with OMB Circular A-133. Project sponsors, or subcontractors of HOPWA funds through a Lead Agency, should submit a copy of their audited financial statements, if available.

CONSUMER GRIEVANCE POLICY- PROCESS FOR TERMINATING ASSISTANCE

Each project sponsor must have a formal process for terminating assistance to an individual or family. At a minimum, there must be an appeals procedure with one level of administrative review for consumers who have HOPWA services terminated or are ineligible for HOPWA services for any reason. Consumers must be informed in writing of the appeals procedure at intake. It is the responsibility of any organization receiving HOPWA funds to inform prospective HOPWA consumers of the policy and maintain documentation that this policy has been shared during the intake process.

Please refer to the *Code of Federal Regulations 24 Part 574* (contained in the Appendix of this manual) for minimum requirements. Those applicants with small programs and limited staff may have the Executive Director hear all appeals. At a minimum, someone other than the person who made the initial termination of services must hear any appeal. For those applicants with

larger programs, a procedure allowing for two or more levels of appeal is appropriate and expected. The Virginia Department of Housing and Community Development is not an appropriate level of appeal.

Prior to execution of an agreement for HOPWA funds, each prospective project sponsor, including subrecipients, will be required to submit a copy of their Consumer Grievance Policy so that it may be placed on file at DHCD. Any consumer complaints received by DHCD with regard to termination or ineligibility for HOPWA services will be referred back to the organization in question for resolution through their Consumer Grievance Policy. Resolution of grievances will be reviewed during audits of program funds.

The formal process for terminating assistance is required through the Housing and Community Development Act of 1992. Failure to enforce this federal requirement will result in the deobligation of funds.

FAIR HOUSING REQUIREMENTS

All HOPWA project sponsors must perform some action in the area of enforcement and/or promotion to affirmatively further fair housing. During the operating year, project sponsors must carry out a minimum of one activity to further fair housing. The activity may be chosen from the following list or may be one that has been specifically approved by DHCD. Attending a Fair Housing workshop or seminar may not be used in successive years.

1. Adopt a resolution endorsing the concept of fair housing and advertising the resolution through the local media.
2. Enact a local fair housing ordinance substantially equivalent to federal or State law.
3. Attend a fair housing workshop offered or approved by DHCD. A member of the Board or governing body, or the chief administrative official and another appropriate representative (local realtor, banker, etc.) must attend a fair housing workshop.
4. Provide all project beneficiaries with a copy of a Fair Housing brochure.
5. Enlist the participation of local realtors, lenders, and home-builders in an agreement and promotion of affirmative marketing, open housing, and review of underwriting, credit criteria, etc. The agreement must be published through the local media.
6. Conduct a public educational program for local housing consumers and providers and/or financial institutions regarding fair housing issues.
7. Develop a public information network using local newspapers, radio stations, bulletin boards, churches, utility bill mailing, etc. to ensure all segments of the community are aware of fair housing requirements, especially realtors, landlords, financial institutions, and minority households.

8. Develop a fair housing assistance program to make housing opportunities known to minorities, to monitor compliance, and to refer discrimination complaints to the proper authorities.
9. Assess the special housing problems of women and minorities through surveys, etc. and determine any effects of discrimination. Develop a plan to assist in overcoming these effects.
10. Develop or fund a community-based fair housing organization.

AFFIRMATIVE OUTREACH

All HOPWA project sponsors must adopt procedures to ensure that all persons who qualify for the assistance, regardless of their race, color, religion, sex, age, national origin, familial status, or handicap, know of the availability of the HOPWA program. Evidence of outreach efforts is required despite the presence of a waiting list for HOPWA services, to ensure that access to services is not exclusionary. This federal requirement may be found at 24 CFR Part 574.603 “Nondiscrimination and equal opportunity.” All printed marketing and outreach materials must identify assistance and program activities as being made possible through the U.S. Department of Housing and Urban Development - Housing Opportunities for Persons With AIDS (HOPWA) Program.

CONTINUUM OF CARE PLANNING

A Continuum of Care Plan for Homeless People is a community or regionally-based plan which coordinates a flexible delivery system of housing and services designed to meet the specific needs of homeless people as they move from a homeless living situation to permanent housing. A Gaps Analysis, identifying the existing housing and supportive services resources available to the homeless, including the HIV/AIDS subpopulation, are an integral part of the planning process. All HOPWA project sponsors are required to participate in this planning process for localities in their service area. Should you need assistance identifying the appropriate Continuum of Care contact person in your area, please refer to the list located in the appendix of this manual.

APPLYING FOR HOPWA FUNDS

ELIGIBLE APPLICANTS

Eligible applicants for HOPWA are nonprofit organizations and governmental housing agencies, including local government housing agencies, public housing authorities and governmental health and human service agencies that provide assistance for residential programs, such as transitional drug and/or alcohol abuse treatment and counseling, or institutional care, including sub acute care and inpatient treatment. Nonprofit housing organizations may coordinate with health and human service agencies.

COORDINATED APPLICATION SUBMISSION

A coordinated application submission is a joint application in which two or more organizations, or prospective project sponsors, serve different parts of the same HOPWA region or where each organization provides different services within the region. When applicable, DHCD encourages interested applicant organizations from a region to coordinate their HOPWA proposals in order to ensure region wide service coverage. A coordinated application should designate a Lead Agency responsible for overseeing regional administration of HOPWA funds, including serving as fiscal agent. Under this arrangement, the Lead Agency, while under contract with the Department, would be expected to execute subcontracts with other organizations in the region.

FUNDS AVAILABLE

The DHCD will award funds for the federal fiscal years 2003 (\$646,000) AND 2004 (\$640,000); also, DHCD will award carry-over funds from previous funded years in the amount of \$54,503. This total funding the amount of \$840,503 will be allocated regionally by using the following formula:

- Eighty percent (80%) based on the cumulative number of HIV and AIDS cases, excluding deceased cases, reported as of March 3, 2004 to the Virginia Department of Health by localities within each region; and
- Twenty percent (20%) based on each region's percentage of the state's geographic area in square miles.

A one-time only set-aside amount of \$500,000 will be made available on a competitive basis for a project that will create additional units of affordable housing for persons living with AIDS and their families. Notification of this funding will be released on August 1, 2004.

CHANGES TO 2004 EMSAs

An eligible metropolitan statistical area (EMSA) or state receives a direct allocation of HOPWA funding when 1,500 cumulative cases of AIDS are diagnosed in a region. The Commonwealth of Virginia Department of Housing and Community Development administers HOPWA funds for the “Balance of State”, which are the areas of Virginia outside of Northern Virginia-Washington D.C., Newport News-Virginia Beach, and Richmond-Petersburg EMSAs.

The Office of Management and Budget (OMB) for the HOPWA program, in 2003, established changes to the EMSAs. As a result of the EMSA changes, the following occurred:

- Culpeper County, VA was part of the D.C. EMSA. Culpeper County now falls under the State of Virginia's Formula HOPWA award.
- The counties of King and Queen, King William, Caroline, Louisa, Cumberland, and Sussex were part of the State of Virginia's Formula HOPWA award. They now are under the Richmond-Petersburg EMSA HOPWA award.
- Surry County was part of the State of Virginia's Formula HOPWA award, and now is a part of the Virginia Beach-Norfolk-Newport News EMSA.
- Frederick County, VA was part of the State of Virginia's Formula HOPWA award, has now become a part of the Bethesda-Frederick-Gaithersburg, MD Metropolitan Division.

GEOGRAPHICAL CONSIDERATIONS

As previously stated, HOPWA funds are limited to jurisdictions outside of the Northern Virginia-Washington D.C., Newport News-Virginia Beach, and Richmond-Petersburg EMSAs and are allocated to six geographic service regions: Southwest, South Central, Northwest, Eastern, Eastern Shore, and the Middle Peninsula.

REGIONAL FUNDING TARGETS

For Federal Fiscal Year 2004

REGION	LOCALITIES WITHIN REGION	ALLOCATION FFY 2004
SOUTHWEST REGION	Counties of Lee, Scott, Wise, Dickenson, Russell, Washington, Smyth, Tazewell, Bland, Wythe, Grayson, Carroll, Patrick, Henry, Pittsylvania, Campbell, Craig, Roanoke, Botetourt, Alleghany, Floyd, Pulaski, Buchanan, Amherst, Appomattox, Montgomery, Franklin, Giles, Bedford and Halifax, and the Cities of Norton, Galax, Roanoke, Salem, Clifton Forge and Radford.	\$386,365
NORTHWEST REGION	Counties of Bath, Culpeper, Rockbridge, Lexington, Highland, Augusta, Albemarle, Nelson, Fluvanna, Louisa, Orange, Greene, Madison, Rockingham, Shenandoah, Page, Rappahannock, and Caroline, and the Cities of Buena Vista, Charlottesville, Harrisonburg, Staunton, Winchester, and Waynesboro.	\$210,067
EASTERN REGION	Southampton, Franklin City, Sussex, Surry	\$13,655
SOUTH CENTRAL REGION	Counties of Amelia, Mecklenburg, Brunswick, Greenville, Lunenburg, Charlotte, Prince Edward, Nottoway, and Buckingham, and the City of Emporia.	\$161,007
EASTERN SHORE REGION	Northampton and Accomack counties	\$35,255
MIDDLE PENINSULA REGION	Counties of Middlesex, Lancaster, Westmoreland, Richmond, Essex, and Northumberland.	\$34,155

An applicant's request for the entire HOPWA allocation is supportable only if the applicant intends to provide multiple program activities in all localities within the region. Applications proposing to serve a portion of the service area should consider requests representing a pro-rata portion of funds available.

HOPWA CONTRACT TERM & OPERATING YEAR

HOPWA allocations are made by the U.S. Department of Housing and Urban Development to DHCD annually. At the discretion of the project sponsor, organizations should expend program funds within a twelve month period following contract execution. Funds not expended during the program year may be carried over at the discretion of DHCD. A project sponsor may commence incurring program-eligible costs upon full execution of a HOPWA Subgrant Agreement with DHCD in accordance with the approved program budget contained in the funding application.

COMPETITIVE EVALUATION

MAXIMUM SCORE- 100 POINTS

In the event two or more organizations apply for funds to provide similar services in the same service area, exclusive of a coordinated application submission, and each is found to meet the *Eligible Applicant Criteria*, applications will be ranked competitively according to the following criteria:

- Administrative capacity of the applicant to administer HOPWA funds in a responsive and efficient manner; (20 Points)
- Relevant experience delivering services to the HIV/AIDS community, operating a rental subsidy program and/or delivering supportive services to special needs populations; (10 Points)
- Documentation of the critical unmet needs of potential consumers in the proposed service area and knowledge of the service area's social service and housing characteristics; (10 Points)
- Degree to which the applicant's plan addresses the described needs and characteristics; (10 Points)
- Applicant proposes at least one relevant and reasonable Outcome Measure for each of the four Program Goals; (10 Points)
- Adequacy of outreach plan to the HIV/AIDS community in consideration of the size of the proposed service area and other local resources; (10 Points)
- Evidence of the inclusion of input from the HIV/AIDS community and coordination with other local resources available to the population; (10 Points)
- Degree to which the proposed budget is reasonable and cost-effective in consideration of the proposed activities and number of individuals and families to be assisted; (20 Points)

DHCD reserves the right to negotiate funding requests among applicants to achieve diversity among providers and services and to promote equal access to housing-related services by persons living with HIV/AIDS in all localities within each region. An additional request for HOPWA applications may be issued should an insufficient number of qualified applications be received.

APPLICATION INSTRUCTIONS & DEADLINE

Applications must be submitted on 8.5 x 11 paper with a font no smaller than twelve point type.

Application sections must be identified and pages numbered.

Please submit **one original and two unbound copies** of your application.

No Three (3) Ring Binders.

NO LATER THAN

5:00 p.m. on Friday, June 18, 2004

at the offices of the:

Virginia Department of Housing and Community Development
The Jackson Center
501 North Second Street
Richmond, Virginia 23219-1321
Attention: Cheryl L. Branch.

NO FACSIMILES WILL BE ACCEPTED.

**APPLICATIONS RECEIVED AFTER DEADLINE WILL NOT BE
CONSIDERED FOR FUNDING.**

Questions or requests for additional information regarding the HOPWA Program and this application, should be directed to:

Cheryl L. Branch
Program Administrator
(804) 225-3129

or by e-mail at:

cheryl.branch@dhcd.virginia.gov

Personal consultations may be scheduled at an applicant's request. Application information will not be provided which may constitute an unfair advantage in the event of competitive application submissions.

APPENDIX

INCOME EXCLUSIONS

INCOME EXCLUSIONS HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS 24 CFR ~ Part 5 ~ Subpart F

Annual Gross Income Does Not Include:

1. Income from employment of children (including foster children) under the age of 18.
2. Payments for the care of foster children.
3. Lump-sum additions to family assets (exclusive of eligible periodic payments previously reported on the Gross Income Worksheet including social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits - including lump sum payments for the delayed start of a periodic payment) such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses.
4. Amounts provided specifically for medical costs or for reimbursement of medical expenses for any member of the household.
5. Income of a live-in aide
6. Educational scholarships paid directly to the student or to the educational institution, and amounts paid by government to a veteran for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student. Any scholarship aid or payments to a veteran not used for the above purposes that is available for subsistence are to be included in income.
7. Amounts received under training programs funded by HUD.
8. Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income (SSI) eligibility and benefits because they are set aside for use under a Plan to Attain Self-sufficiency (PASS).
9. Amounts received by a participant in other publicly assisted programs which cover out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program.
10. Temporary, nonrecurring or sporadic income (including one-time gifts)
11. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining Section 8 assistance. The following list of program benefits the comprehensive list of benefits that currently qualify for income exclusion. The list of statutory exclusions is updated from time to time and published in the Federal Register. Any changes to the exclusions will supersede those listed here. As of July 23, 1990, the following were excluded:
 - a.) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)).
 - b.) Payment to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044 (g), 5058)
 - c.) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626 (a))
 - d.) Income derived from certain sub-marginal land of the United States that held in trust for certain Indian tribes (25 U.S.C. 259e)
 - e.) Payments or allowances made under the Department of Health and Human Services Low-Income Home Energy Assistance Program (42 U.S.C. 8624 (f)).
 - f.) Payments received under programs funded in whole or in part under the Job Training Partnership Act (49 U.S.C. 1552 (b)).
 - g.) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub.L. 94-540, 90 Stat. 2503-2504).
 - h.) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission of the Court of Claims (25 U.S.C. 1407-1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117).
 - i.) Scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs, that are made available to cover the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of a student at an educational institution (20 U.S.C. 1087 uu).
 - j.) Payments received from programs funded under Title V of the Older Americans Act of 1965 (U.S.C. 3056 (f)).
 - k.) Payments received after January 1, 1989, from the agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).
 - l.) Payments received under Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 94 Stat. 1785)

NOTICE CPD-02-9

Document can be found at the following web site:

<http://www.hud.gov/offices/cpd/lawsregs/notices/2002/02-9.doc>

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS PROGRAM

CERTIFICATION OF LOCAL APPROVAL

I, _____ duly authorized to act on behalf
(enter name and title)

of _____ hereby approve
(enter name of jurisdiction)

the following project(s) proposed by _____
(enter name of nonprofit organization(s))

which is/are located in _____
(enter name of all applicable jurisdictions)

Signature

Date

Type or Print Name and Title of
Authorized Local Government Official

TITLE 24--HOUSING AND URBAN
DEVELOPMENT

CHAPTER V--OFFICE OF
ASSISTANT SECRETARY FOR
COMMUNITY PLANNING AND
DEVELOPMENT, DEPARTMENT OF
HOUSING AND URBAN
DEVELOPMENT

PART 574--HOUSING
OPPORTUNITIES FOR PERSONS
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Subpart A--General

Sec. 574.3 Definitions.

The terms *Grantee* and *Secretary* are defined in 24 CFR part 5.

Acquired immunodeficiency syndrome (AIDS) or related diseases means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome, including infection with the human immunodeficiency virus (HIV).

Administrative costs mean costs for general management, oversight, coordination, evaluation, and reporting on eligible activities. Such costs do not include costs directly related to carrying out eligible activities, since those costs are eligible as part of the activity delivery costs of such activities.

Applicant means a State or city applying for a formula allocation as described under Sec. 574.100 or a State, unit of general local government, or a nonprofit organization applying for a competitive grant as described under Sec. 574.210.

City has the meaning given it in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

Eligible Metropolitan Statistical Area (EMSA) means a metropolitan statistical area that has a

population of more than 500,000 and has more than 1,500 cumulative cases of AIDS.

Eligible person means a person with acquired immunodeficiency syndrome or related diseases who is a low-income individual, as defined in this section, and the person's family. A person with AIDS or related diseases or a family member regardless of income is eligible to receive housing information services, as described in Sec. 574.300(b)(1). Any person living in proximity to a community residence is eligible to participate in that residence's community outreach and educational activities regarding AIDS or related diseases, as provided in Sec. 574.300(b)(9).

Eligible State means a State that has:

- (1) More than 1,500 cumulative cases of AIDS in those areas of the State outside of eligible metropolitan statistical areas that are eligible to be funded through a qualifying city; and
- (2) A consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part. (A State may carry out activities anywhere in the State, including within an EMSA.)

Family means a household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or well being, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.

Low-income individual has the meaning given it in section 853(3) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

Metropolitan statistical area has the meaning given it in section 853(5) of the AIDS Housing Opportunity Act (42.U.S.C. 12902).

Nonprofit organization means any nonprofit organization (including a State or locally chartered, nonprofit organization) that:

- (1) Is organized under State or local laws;
- (2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (3) Has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has designated an entity that will maintain such an accounting system; and
- (4) Has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

Non-substantial rehabilitation means rehabilitation that involves costs that are less than or equal to 75 percent of the value of the building after rehabilitation.

Population means total resident population based on data compiled by the U.S. Census and referable to the same point in time.

Project sponsor means any nonprofit organization or governmental housing agency that receives funds under a contract with the grantee to carry out eligible activities under this part. The selection of project sponsors is not subject to the procurement requirements of 24 CFR 85.36.

Qualifying city means a city that is the most populous unit of general local government in an eligible metropolitan statistical area (EMSA) and that has a consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part.

Rehabilitation means the improvement or repair of an existing structure, or an addition to an existing structure that does not increase the floor area by more than 100 percent.

State has the meaning given it in section 853(9) of the AIDS Housing Opportunity Act (42 U.S.C. 12902).

Substantial rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building after rehabilitation.

Unit of general local government means any city, town, township, parish, county, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of the National Affordable Housing Act.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17199, Apr. 11, 1994; 60 FR 1917, Jan. 5, 1995; 61 FR 5209, Feb. 9, 1996; 61 FR 7963, Feb. 29, 1996]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

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Subpart B--Formula Entitlements

Sec. 574.100 Eligible applicants.

- (a) Eligible States and qualifying cities, as defined in Sec. 574.3, qualify for formula allocations under HOPWA.
- (b) HUD will notify eligible States and qualifying cities of their formula eligibility and allocation amounts and EMSA service areas annually.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17199, Apr. 11, 1994;
60 FR 1917, Jan. 5, 1995]

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Subpart B--Formula Entitlements

Sec. 574.110 Overview of formula allocations.

The formula grants are awarded upon submission and approval of a consolidated plan, pursuant to 24 CFR part 91, that covers the assistance to be provided under this part. Certain states and cities that are the most populous unit of general local government in eligible metropolitan statistical areas will receive formula allocations based on their State or metropolitan population and proportionate number of cases of persons with AIDS. They will receive funds under this part (providing they comply with 24 CFR part 91) for eligible activities that address the

housing needs of persons with AIDS or related diseases and their families (see Sec. 574.130(b)).

[61 FR 7963, Feb. 29, 1996]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

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Sec. 574.120 Responsibility of applicant to serve EMSA.

The EMSA's applicant shall serve eligible persons who live anywhere within the EMSA, except that housing assistance shall be provided only in localities within the EMSA that have a consolidated plan prepared, submitted, and approved in accordance with 24 CFR part 91 that covers the assistance to be provided under this part. In allocating grant amounts among eligible activities, the EMSA's applicant shall address needs of eligible persons who reside within the metropolitan statistical area, including those not within the jurisdiction of the applicant.

[60 FR 1917, Jan. 5, 1995]

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Subpart B--Formula Entitlements

**Sec. 574.130 Formula
allocations.**

- (a) Data sources. HUD will allocate funds based on the number of cases of acquired immunodeficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control, and on population data provided by the U.S. Census. The number of cases of acquired immunodeficiency syndrome used for this purpose shall be the number reported as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and allocated.
- (b) Distribution of appropriated funds for entitlement awards.
- (1) Seventy-five percent of the funds allocated under the formula is distributed to qualifying cities and eligible States, as described in Sec. 574.100, based on each metropolitan statistical area's or State's proportionate share of the cumulative number of AIDS cases in all eligible metropolitan statistical areas and eligible States.
- (2) The remaining twenty-five percent is allocated among qualifying cities, but not States, where the per capita incidence of AIDS for the year, April 1 through March 31, preceding the fiscal year of the appropriation is higher than the average for all metropolitan statistical areas with more than 500,000 population. Each qualifying city's allocation reflects its EMSA's proportionate share of the high incidence factor among EMSA's with higher than average per capita incidence of AIDS. The high incidence factor is computed by multiplying the population of the metropolitan statistical area by the difference between its twelve-month-per-capita-incidence rate and the average rate for all

metropolitan statistical areas with more than 500,000 population. The EMSA's proportionate share is determined by dividing its high incidence factor by the sum of the high incidence factors for all EMSA's with higher than average per capita incidence of AIDS.

- (c) Minimum grant. No grant awarded under paragraph (b) of this section shall be less than \$200,000. Therefore, if the calculations under paragraph (b) of this section would result in any eligible metropolitan statistical area or eligible State receiving less than \$200,000, the amount allocated to that entity is increased to \$200,000 and allocations to entities in excess of \$200,000 are proportionately reduced by the amount of the increase.

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Subpart B--Formula Entitlements

**Sec. 574.190 Reallocation of
grant amounts.**

If an eligible State or qualifying city does not submit a consolidated plan in a timely fashion, in accordance with [24 CFR part 91](#), that provides for use of its allocation of funding under this part, the funds allocated to that jurisdiction will be added to the funds available for formula allocations to other jurisdictions in the current fiscal year. Any formula funds that become available as a result of deobligations or the imposition of sanctions as provided

for in Sec. [574.540](#) will be added to the funds available for formula allocations in the next fiscal year.

[57 FR 61740, Dec. 28, 1992, as amended at 60 FR 1918, Jan. 5, 1995]

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Subpart C--Competitive Grants

Sec. 574.200 Amounts available for competitive grants.

- (a) The Department will set aside 10 percent of the amounts appropriated under this program to fund on a competitive basis:
 - (1) Special projects of national significance; and
 - (2) Other projects submitted by States and localities that do not qualify for formula grants.
- (b) Any competitively awarded funds that become available as a result of deobligations or the imposition of sanctions, as provided in Sec. 574.540, will be added to the funds available for competitive grants in the next fiscal year.
- (c) The competitive grants are awarded based on applications, as described in subpart C of this part, submitted in response to a Notice of Funding Availability published in the Federal Register. All States and units of general local government and nonprofit organizations are eligible to apply for

competitive grants to fund projects of national significance. Only those States and units of general local government that do not qualify for formula allocations are eligible to apply for competitive grants to fund other projects.

- (d) If HUD makes a procedural error in a funding competition that, when corrected, would warrant funding of an otherwise eligible application, HUD will select that application for potential funding when sufficient funds become available.

[57 FR 61740, Dec. 28, 1992, as amended at 61 FR 7963, Feb. 29, 1996]

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Subpart C--Competitive Grants

Sec. 574.210 Eligible applicants.

- (a) All States, units of general local government, and nonprofit organizations, may apply for grants for projects of national significance.
- (b) Only those States and units of general local government that do not qualify for formula grants, as described in Sec. 574.100; may apply for grants for other projects as described in Sec. 574.200(a)(2).
- (c) Except for grants for projects of national significance, nonprofit organizations are not eligible to apply directly to HUD for a grant but may

receive funding as a project sponsor under contract with a grantee.

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Subpart C--Competitive Grants

Sec. 574.240 Application requirements.

Applications must comply with the provisions of the Department's Notice of Funding Availability (NOFA) for the fiscal year published in the Federal Register in accordance with 24 CFR part 12. The rating criteria, including the point value for each, are described in the NOFA, including criteria determined by the Secretary.

[61 FR 7963, Feb. 29, 1996]

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Subpart C--Competitive Grants

Sec. 574.260 Amendments.

(a) After an application has been selected for funding, any change that will significantly alter the scope, location, service area, or objectives of an activity or the number of eligible persons served must be justified to HUD and approved by HUD. Whenever any other amendment to the application is made, the grantee must provide a copy to HUD.

(b) Each amendment request must contain a description of the revised proposed use of funds. Funds may not be expended for the revised proposed use of funds until:

- (1) HUD accepts the revised proposed use; and
- (2) For amendments to acquire, rehabilitate, convert, lease, repair or construct properties to provide housing, an environmental review of the revised proposed use of funds has been completed in accordance with Sec. 574.510.

(Approved by the Office of Management and Budget under control number 2506-0133)

TITLE 24--HOUSING AND URBAN DEVELOPMENT

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Subpart D--Uses of Grant Funds

Sec. 574.300 Eligible activities.

(a) General. Subject to applicable requirements described in Secs. 574.310, 574.320, 574.330, and 574.340, HOPWA funds may be used to assist all forms of housing designed to prevent homelessness including emergency housing, shared housing arrangements, apartments, single

room occupancy (SRO) dwellings, and community residences. Appropriate supportive services, as required by Sec. 574.310(a), must be provided as part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity.

(b) Activities. The following activities may be carried out with HOPWA funds:

- (1) Housing information services including, but not limited to, counseling, information, and referral services to assist an eligible person to locate, acquire, finance and maintain housing. This may also include fair housing counseling for eligible persons who may encounter discrimination on the basis of race, color, religion, sex, age, national origin, familial status, or handicap;
- (2) Resource identification to establish, coordinate and develop housing assistance resources for eligible persons (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives);
- (3) Acquisition, rehabilitation, conversion, lease, and repair of facilities to provide housing and services;
- (4) New construction (for single room occupancy (SRO) dwellings and community residences only).
- (5) Project- or tenant-based rental assistance, including assistance for shared housing arrangements;
- (6) Short-term rent, mortgage, and utility payments to prevent the homelessness of the tenant or mortgagor of a dwelling;
- (7) Supportive services including, but not limited to, health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, personal assistance, nutritional services, intensive care when required, and assistance in gaining access to local, State, and Federal government benefits and services, except that health services may

only be provided to individuals with acquired immunodeficiency syndrome or related diseases and not to family members of these individuals;

- (8) Operating costs for housing including maintenance, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs;
- (9) Technical assistance in establishing and operating a community residence, including planning and other pre-development or pre-construction expenses and including, but not limited to, costs relating to community outreach and educational activities regarding AIDS or related diseases for persons residing in proximity to the community residence;
- (10) Administrative expenses:
 - (i) Each grantee may use not more than 3 percent of the grant amount for its own administrative costs relating to administering grant amounts and allocating such amounts to project sponsors; and
 - (ii) Each project sponsor receiving amounts from grants made under this program may use not more than 7 percent of the amounts received for administrative costs.
- (11) For competitive grants only, any other activity proposed by the applicant and approved by HUD.

(c) Limitations of assistance to primarily religious organizations—

- (1) Provision of assistance.
 - (i) Assistance may be provided under this part by a grantee to a project sponsor that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:
 - (A) It will not discriminate against any employee or applicant for employment on the basis of religion and

- will not limit employment or give preference in employment to persons on the basis of religion.
- (B) It will not discriminate against any person applying for any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible activities or give preference to persons on the basis of religion.
- (C) It will provide no religious instruction or counseling, conduct no religious services or worship, engage in no religious proselytizing, and exert no other religious influence in the provision of eligible activities under this part.
- (ii) Assistance will not be provided to a project sponsor that is a primarily religious organization to construct or acquire a structure. Assistance may be provided to a project sponsor that is a primarily religious organization to rehabilitate or convert a structure owned by the organization, only as described in paragraph (c)(2) of this section.
- (2) Rehabilitation or conversion of structures owned by primarily religious organizations. Grant amounts may be used to rehabilitate or convert a structure that is owned by a primarily religious organization, only if:
- (i) The structure (or portion thereof) that is to be rehabilitated or converted with HUD assistance has been leased to an existing or newly established wholly secular organization (which may be established by the religious organization under the provisions of paragraph (c)(3) of this section).
- (ii) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements.
- (iii) The leased structure will be used exclusively for secular purposes available to all persons regardless of religion.
- (iv) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the rehabilitation or conversion was done.
- (v) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization.
- (vi) The primarily religious organization agrees that if the secular organization does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay an amount equal to the residual value of the improvements to the original grantee from which the amounts used to rehabilitate or convert the building were derived. While the original grantee is expected to use this amount for eligible HOPWA activities, there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part.
- (3) Assistance to a wholly secular private nonprofit organization established by a primarily religious organization.
- (i) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a project sponsor. The secular organization may be eligible to receive all forms of assistance available under this part.
- (ii) The secular organization must agree to provide eligible activities under this part in a manner that is free from

religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.

- (iii) The secular organization may enter into a contract with the religious organization to operate the housing assistance, supportive services and other eligible activities for the project. In such a case, the religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles set forth in paragraph (c)(1)(i) of this section.
- (iv) The rehabilitation or conversion of structures are subject to the requirements of paragraph (c)(2) of this section.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994]

TITLE 24--HOUSING AND URBAN DEVELOPMENT

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Subpart D--Uses of Grant Funds

Sec. 574.310 General standards for eligible housing activities.

All grantees using grant funds to provide housing must adhere to the following standards:

- (a)
 - (1) General. The grantee shall ensure that qualified service providers in

the area make available appropriate supportive services to the individuals assisted with housing under this subpart. Supportive services are described in Sec. 574.300(b)(7). For any individual with acquired immunodeficiency syndrome or a related disease who requires more intensive care than can be provided in housing assisted under this subpart, the grantee shall provide for locating a care provider who can appropriately care for the individual and for referring the individual to the care provider.

- (2) Payments. The grantee shall ensure that grant funds will not be used to make payments for health services for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:
 - (i) Under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or
 - (ii) By an entity that provides health services on a prepaid basis.

- (b) Housing quality standards. All housing assisted under Sec. 574.300(b) (3), (4), (5), and (8) must meet the applicable housing quality standards outlined below.

- (1) State and local requirements. Each recipient of assistance under this part must provide safe and sanitary housing that is in compliance with all applicable State and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing.
- (2) Habitability standards. Except for such variations as are proposed by the locality and approved by HUD, recipients must meet the following requirements:
 - (i) Structure and materials. The structures must be structurally

- sound so as not to pose any threat to the health and safety of the occupants and so as to protect the residents from hazards.
- (ii) Access. The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.
 - (iii) Space and security. Each resident must be afforded adequate space and security for themselves and their belongings. An acceptable place to sleep must be provided for each resident.
 - (iv) Interior air quality. Every room or space must be provided with natural or mechanical ventilation. Structures must be free of pollutants in the air at levels that threaten the health of residents.
 - (v) Water supply. The water supply must be free from contamination at levels that threaten the health of individuals.
 - (vi) Thermal environment. The housing must have adequate heating and/or cooling facilities in proper operating condition.
 - (vii) Illumination and electricity. The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliance while assuring safety from fire.
 - (viii) Food preparation and refuse disposal. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.
 - (ix) Sanitary condition. The housing and any equipment must be maintained in sanitary

condition.

- (c) Minimum use period for structures.
 - (1) Any building or structure assisted with amounts under this part must be maintained as a facility to provide housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases:
 - (i) For a period of not less than 10 years, in the case of assistance provided under an activity eligible under Sec. 574.300(b)(3) and (4) involving new construction, substantial rehabilitation or acquisition of a building or structure; or
 - (ii) For a period of not less than 3 years in the cases involving non-substantial rehabilitation or repair of a building or structure.
 - (2) Waiver of minimum use period. HUD may waive the minimum use period of a building or structure as stipulated in paragraph (c)(1) of this section if the grantee can demonstrate, to the satisfaction of HUD, that:
 - (i) The assisted structure is no longer needed to provide supported housing or assistance, or the continued operation of the structure for such purposes is no longer feasible; and
 - (ii) The structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, if the Secretary finds that such variations are necessary because of construction costs or unusually high or low family incomes.
- (d) Resident rent payment. Except for persons in short-term supported housing, each person receiving rental assistance under this program or residing in any rental housing assisted under this program must pay as rent,

including utilities, an amount which is the higher of:

- (1) 30 percent of the family's monthly adjusted income (adjustment factors include the age of the individual, medical expenses, size of family and child care expenses and are described in detail in 24 CFR 5.609). The calculation of the family's monthly adjusted income must include the expense deductions provided in 24 CFR 5.611(a), and for eligible persons, the calculation of monthly adjusted income also must include the disallowance of earned income as provided in 24 CFR 5.617, if applicable;
- (2) 10 percent of the family's monthly gross income; or
- (3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of the payment that is designated for housing costs.

(e) Termination of assistance—

- (1) Surviving family members. With respect to the surviving member or members of a family who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death, housing assistance and supportive services under the HOPWA program shall continue for a grace period following the death of the person with AIDS. The grantee or project sponsor shall establish a reasonable grace period for continued participation by a surviving family member, but that period may not exceed one year from the death of the family member with AIDS. The grantee or project sponsor shall notify the family of the duration of their grace period and may assist the family with information on other available housing programs and with moving expenses.

- (2) Violation of requirements—

- (i) Basis. Assistance to participants who reside in housing programs assisted under this part may be terminated if the participant violates program requirements or conditions of occupancy. Grantees must ensure that supportive services are provided, so that a participant's assistance is terminated only in the most severe cases.
- (ii) Procedure. In terminating assistance to any program participant for violation of requirements, grantees must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law. This process at minimum, must consist of:
 - (A) Serving the participant with a written notice containing a clear statement of the reasons for termination;
 - (B) Permitting the participant to have a review of the decision, in which the participant is given the opportunity to confront opposing witnesses, present written objections, and be represented by their own counsel, before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
 - (C) Providing prompt written notification of the final decision to the participant.

(Paragraph (c) approved by the Office of Management and Budget under control number 2506-0133)

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994; 61 FR 7963, Feb. 29, 1996; 66 FR 6225, Jan. 19, 2001]

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Subpart D--Uses of Grant Funds

**Sec. 574.320 Additional
standards for rental assistance.**

- (a) If grant funds are used to provide rental assistance, the following additional standards apply:
- (1) Maximum subsidy. The amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between:
 - (i) The lower of the rent standard or reasonable rent for the unit; and
 - (ii) The resident's rent payment calculated under Sec. 574.310(d).
 - (2) Rent standard. The rent standard shall be established by the grantee and shall be no more than the published section 8 fair market rent (FMR) or the HUD-approved community-wide exception rent for the unit size. However, on a unit by unit basis, the grantee may increase that amount by up to 10 percent for up to 20 percent of the units assisted.
 - (3) Rent reasonableness. The rent charged for a unit must be reasonable in relation to rents currently being charged for comparable units in the private unassisted market and must not be in excess of rents currently being charged by the owner for comparable unassisted units.
- (b) With respect to shared housing arrangements, the rent charged for an assisted family or individual shall be in

relation to the size of the private space for that assisted family or individual in comparison to other private space in the shared unit, excluding common space. An assisted family or individual may be assigned a pro rata portion based on the ratio derived by dividing the number of bedrooms in their private space by the number of bedrooms in the unit. Participation in shared housing arrangements shall be voluntary.

[57 FR 61740, Dec. 28, 1992, as amended at 61 FR 7963, Feb. 29, 1996]

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**Sec. 574.330 Additional
standards for short-term
supported housing.**

Short-term supported housing includes facilities to provide temporary shelter to eligible individuals as well as rent, mortgage, and utilities payments to enable eligible individuals to remain in their own dwellings. If grant funds are used to provide such short-term supported housing assistance, the following additional standards apply:

- (a) Time limits.
- (1) A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six month period. Rent, mortgage, and utilities

- payments to prevent the homelessness of the tenant or mortgagor of a dwelling may not be provided to such an individual for these costs accruing over a period of more than 21 weeks in any 52 week period. These limitations do not apply to rental assistance provided under Sec. 574.300(b)(5).
- (2) Waiver of time limitations. HUD may waive, as it determines appropriate, the limitations of paragraph (a)(1) and will favorably consider a waiver based on the good faith effort of a project sponsor to provide permanent housing under subsection (c).
- (b) Residency limitations—
- (1) Residency. A short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals;
- (2) Waiver of residency limitations. HUD may waive, as it determines appropriate, the limitations of paragraph (b)(1) of this section.
- (c) Placement. A short-term supported housing facility assisted under this part must, to the maximum extent practicable, provide each individual living in such housing the opportunity for placement in permanent housing or in a living environment appropriate to his or her health and social needs.
- (d) Assistance to continue independent living. In addition to the supportive services provided when an individual is relocated to a short-term supported housing facility, supportive services may be provided to individuals when they remain in their residence because the residence is appropriate to the needs of the individual. In the latter case, a rent, mortgage and utilities payments program assisted under this part shall provide, when reasonable, supportive services specifically designed to maintain the individual in such residence.
- (e) Case management services. A program assisted under this section shall provide each assisted individual with

an opportunity, if eligible, to receive case management services from the appropriate social service agencies.

(Paragraph (b) approved by the Office of Management and Budget under control number 2506-0133)

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994]

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Sec. 574.340 Additional standards for community residences.

- (a) A community residence is a multiunit residence designed for eligible persons to provide a lower cost residential alternative to institutional care; to prevent or delay the need for such care; to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently; and to enable such persons to participate as fully as possible in community life.
- (b) If grant funds are used to provide a community residence, except for planning and other expenses preliminary to construction or other physical improvement for a community residence, the grantee must, prior to the expenditure of such funds, obtain and keep on file the following certifications:
- (1) A services agreement.

- (i) A certification that the grantee will itself provide services as required by Sec. 574.310(a) to eligible persons assisted by the community residence; or
 - (ii) A certification that the grantee has entered into a written agreement with a project sponsor or contracted service provider to provide services as required by Sec. 574.310(a) to eligible persons assisted by the community residence;
- (2) The adequacy of funding.
 - (i) A certification that the grantee has acquired sufficient funding for these services; or
 - (ii) A certification that the grantee has on file an analysis of the service level needed for each community residence, a statement of which grantee agency, project sponsor, or service provider will provide the needed services, and a statement of how the services will be funded; and
- (3) Capability.
 - (i) A certification that the grantee is qualified to provide the services; or
 - (ii) A certification that the project sponsor or the service provider is qualified to provide the services.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 17200, Apr. 11, 1994]

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Sec. 574.400 Prohibition of substitution of funds.

Amounts received from grants under this part may not be used to replace other amounts made available or designated by State or local governments through appropriations for use for the purposes of this part.

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Sec. 574.410 Capacity.

The grantee shall ensure that any project sponsor with which the grantee contracts to carry out an activity under this part has the capacity and capability to effectively administer the activity.

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Sec. 574.420 Cooperation.

- (a) The grantee shall agree, and shall ensure that each project sponsor agrees, to cooperate and coordinate in providing assistance under this part with the agencies of the relevant State and local governments responsible for services in the area served by the grantee for eligible persons and other public and private organizations and agencies providing services for such eligible persons.
- (b) A grantee that is a State shall obtain the approval of the unit of general local government in which a project is to be located before entering into a contract with a project sponsor to carry out an activity authorized under this part.
- (c) A grantee that is a city receiving a formula allocation for an EMSA shall coordinate with other units of general local government located within the metropolitan statistical area to address needs within that area.

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Sec. 574.430 Fee prohibitions.

The grantee shall agree, and shall ensure that each project sponsor agrees, that no fee, except rent, will be charged of any eligible person for any housing or services provided with amounts from a grant under this part.

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Sec. 574.440 Confidentiality.

The grantee shall agree, and shall ensure that each project sponsor agrees, to ensure the confidentiality of the name of any individual assisted under this part and any other information regarding individuals receiving assistance.

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Sec. 574.450 Financial records.

The grantee shall agree, and shall ensure that each project sponsor agrees, to maintain and make available to HUD for inspection financial records sufficient, in HUD's determination, to ensure proper accounting and disbursing

of amounts received from a grant under this part.

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Sec. 574.500 Responsibility for grant administration.

- (a) General. Grantees are responsible for ensuring that grants are administered in accordance with the requirements of this part and other applicable laws. Grantees are responsible for ensuring that their respective project sponsors carry out activities in compliance with all applicable requirements.
- (b) Grant agreement. The grant agreement will provide that the grantee agrees, and will ensure that each project sponsor agrees, to:
 - (1) Operate the program in accordance with the provisions of these regulations and other applicable HUD regulations;
 - (2) Conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;
 - (3) Assure the adequate provision of supportive services to the participants in the program; and
 - (4) Comply with such other terms and conditions, including recordkeeping and reports (which must include racial and ethnic data on participants) for program monitoring and evaluation purposes, as HUD may establish for purposes of carrying out the program in an effective and

efficient manner.

- (c) Enforcement. HUD will enforce the obligations in the grant agreement in accordance with the provisions of 24 CFR 85.43. A grantee will be provided an opportunity for informal consultation before HUD will exercise any remedies authorized in paragraph (a) of that section.

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Sec. 574.510 Environmental procedures and standards.

Before any amounts under this program are used to acquire, rehabilitate, convert, lease, repair or construct properties to provide housing, HUD shall perform a review in accord with 24 CFR part 50, which implements the National Environmental Policy Act and the related Federal environmental laws and authorities listed under 24 CFR 50.4. In performing its environmental review, HUD may use previously issued environmental reviews prepared by other local, State, or federal agencies for the proposed property. The grantee will cooperate in providing these documents. HUD must, however, conduct the environmental analysis and prepare the environmental review and be responsible for the required environmental findings. An environmental assurance shall be provided by an applicant for

formula allocations or competitive awards in accordance with 24 CFR 50.3(i).

[61 FR 7963, Feb. 29, 1996]

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Sec. 574.520 Performance reports.

- (a) Formula grants. For a formula grant recipient, the performance reporting requirements are specified in 24 CFR part 91.
- (b) Competitive grants. A grantee shall submit to HUD annually a report describing the use of the amounts received, including the number of individuals assisted, the types of assistance provided, and any other information that HUD may require. Annual reports are required until all grant funds are expended.

[60 FR 1918, Jan. 5, 1995]

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Sec. 574.530 Recordkeeping.

Each grantee must ensure that records are maintained for a four-year period to document compliance with the provisions of this part. Grantees must maintain current and accurate data on the race and ethnicity of program participants.

[57 FR 61740, Dec. 28, 1992, as amended at 60 FR 1918, Jan. 5, 1995]

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Sec. 574.540 Deobligation of funds.

HUD may deobligate all or a portion of the amounts approved for eligible activities if such amounts are not expended in a timely manner, or the proposed activity for which funding was approved is not provided in accordance with the approved application or action plan and the requirements of this regulation. HUD may deobligate any amount of grant funds that have not been expended within a three-year period from the date of the signing of the grant agreement. The grant

agreement may set forth other circumstances under which funds may be deobligated or sanctions imposed.

[61 FR 7963, Feb. 29, 1996]

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Sec. 574.600 Cross-reference.

The Federal requirements set forth in 24 CFR part 5 apply to this program as specified in this subpart.

[61 FR 5209, Feb. 9, 1996]

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**Sec. 574.603
Nondiscrimination and equal
opportunity.**

Within the population eligible for this program, the nondiscrimination and equal opportunity requirements set forth in 24 CFR part 5 and the following requirements apply:

- (a) Fair housing requirements.
 - (1) Grantees and project sponsors shall comply with the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101-12213) and implementing regulations at 28 CFR part 35 (States and local government grantees) and part 36 (public accommodations and requirements for certain types of short-term housing assistance).
 - (2) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964-1965 Comp., p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264) (Equal Employment Opportunity) does not apply to this program.
- (b) Affirmative outreach. A grantee or project sponsor must adopt procedures to ensure that all persons who qualify for the assistance, regardless of their race, color, religion, sex, age, national origin, familial status, or handicap, know of the availability of the HOPWA program, including facilities and services accessible to persons with a handicap, and maintain evidence of implementation of the procedures.

[57 FR 61740, Dec. 28, 1992, as amended at 59 FR 33894, June 30, 1994. Redesignated and amended at 61 FR 5209, Feb. 9, 1996; 61 FR 7964, Feb. 29, 1996]

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**Sec. 574.605 Applicability of
OMB circulars.**

The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A-102) and OMB Circular No. A-87 apply with respect to the acceptance and use of funds under the program by States and units of general local government, including public agencies, and Circulars Nos. A-110 and A-122 apply with respect to the acceptance and use of funds under the program by private non-profit entities. (Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332. (This is not a toll-free number.) There is a limit of two free copies.

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**Sec. 574.625 Conflict of
interest.**

- (a) In addition to the conflict of interest requirements in OMB Circular A-102 and 24 CFR 85.36(b)(3), no person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or project sponsor and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.
- (b) Exceptions: Threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (a) of this section when it determines that the exception will serve to further the purposes of the HOPWA program and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:
 - (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
 - (2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
- (c) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (b) of this

section, HUD will consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- (2) Whether the person affected is a member of a group or class of eligible persons and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;
- (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (a) of this section;
- (5) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (6) Any other relevant considerations.

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Sec. 574.630 Displacement, relocation and real property acquisition.

- (a) Minimizing displacement. Consistent with the other goals and objectives of this part, grantees and project sponsors must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.
- (b) Relocation assistance for displaced persons. A displaced person (defined in paragraph (f) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24.
- (c) Real property acquisition requirements. The acquisition of real property for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.
- (d) Appeals. A person who disagrees with the grantee's or project sponsor's determination concerning whether the person qualifies as a "displaced person," or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the grantee. A low-income person who is dissatisfied with the grantee's determination on his or her appeal may submit a written request for review of that determination to the HUD Field Office.
- (e) Responsibility of grantee.
 - (1) Each grantee shall certify (i.e., provide assurance of compliance as required by 49 CFR part 24) that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section, and shall ensure such compliance notwithstanding any third party's contractual obligation to the grantee to comply with these provisions.
 - (2) The cost of required relocation assistance is an eligible project cost in the same manner and to

- the same extent as other project costs. Such costs also may be paid for with funds available from other sources.
- (3) The grantee shall maintain records in sufficient detail to demonstrate compliance with these provisions.
- (f) Definition of displaced person.
- (1) For purposes of this section, the term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. This includes any permanent, involuntary move for an assisted project including any permanent move for an assisted project, including any permanent move from the real property that is made:
- (i) After notice by the grantee, project sponsor, or property owner to move permanently from the property, if the move occurs on or after the date that the grantee submits to HUD an application for assistance that is later approved and funded;
- (ii) Before the submission of the application to HUD, if the grantee, project sponsor, or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the assisted project; or
- (iii) By a tenant-occupant of a dwelling unit, if any one of the following three situations occurs:
- (A) The tenant moves after the "initiation of negotiations" and the move occurs before the tenant has been provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:
- (1) The tenant's monthly rent before the initiation of negotiations and estimated average utility costs, or
- (2) 30 percent of gross household income; or
- (B) The tenant is required to relocate temporarily, does not return to the building/complex and either:
- (1) The tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, or
- (2) Other conditions of the temporary relocation are not reasonable; or
- (C) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move, or other conditions of the move are not reasonable.
- (2) Notwithstanding the provisions of paragraph (f)(1) of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:
- (i) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement, violation or applicable Federal, State or local law, or other good cause, and HUD determines that the eviction

was not undertaken for the purposes of evading the obligation to provide relocation assistance;

- (ii) The person moved into the property after the submission of the application and, before signing a lease and commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" (or for any assistance provided under this section), if the project is approved;
 - (iii) The person is ineligible under 49 CFR 24.2(g)(2); or
 - (iv) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.
- (3) The grantee or project sponsor may request, at any time, HUD's determination of whether a displacement is or would be covered under this section.
- (g) Definition of initiation of negotiations. For purposes of determining the formula for computing the replacement housing assistance to be provided to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the execution of the agreement between the grantee and the project sponsor.

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Sec. 574.635 Lead-based paint.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, H, J, K, M, and R of this part apply to activities under this program.

[64 FR 50226, Sept. 15, 1999]

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Sec. 574.640 Flood insurance protection.

No property to be assisted under this part may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

- (a) (1) The community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR parts 59 through 79); or

- (2) Less than a year has passed since FEMA notification regarding such hazards; and
- (b) The grantee will ensure that flood insurance on the structure is obtained in compliance with section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

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Sec. 574.645 Coastal barriers.

In accordance with the Coastal Barrier Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

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Sec. 574.650 Audit.

The financial management system used by a State or unit of general local government that is a grantee must provide for audits in accordance with 24 CFR part 44. A nonprofit organization that is a grantee or a project sponsor is subject to the audit requirements set forth in 24 CFR part 45.

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Sec. 574.655 Wage rates.

The provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5) do not apply to this program, except where funds received under this part are combined with funds from other Federal programs that are subject to the Act.

[59 FR 17201, Apr. 11, 1994]

<http://www.huduser.org/Datasets/FMR/FMR2003F/fmr2003va.pdf>

State of Virginia 2004 INCOME LIMITS

Document can be found at the following web site:

<http://www.huduser.org/Datasets/IL/IL04/hud04va.pdf>

State of Virginia
2004 FAIR MARKET RENTS
For existing housing

Document can be found at the following web site:

http://www.huduser.org/Datasets/FMR/FMR2004f/ScheduleB_FY2004F_FMRs.pdf

